

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2954 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.

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BHARATKUMAR MOHANLAL THAKKAR

Versus

COLLECTOR OF BANASKANTHA

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Appearance:

MR SHAKEEL A QURESHI for Petitioners  
MR BD DESAI, AGP, for Respondent No. 1.  
Respondent No.2 served.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/07/97

ORAL JUDGEMENT

Rule. Mr. B.D.Desai, learned AGP waives service on behalf of respondent No.1. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

It is the case of the petitioners that they have been allotted the plot in question by the Deesa Nagarpalika vide Resolution dated 4-4-94 on lease. It is further case of the petitioners that they have paid development charges to the municipality. Respondent No.1-Collector of Banaskantha, while exercising power

under section 258 of the Gujarat Municipalities Act , vide his order dated 30-9-94, has set aside the aforesaid resolution passed in favour of the petitioners by Deesa Nagarpalika. The petitioners have challenged the said order by way of this petition on the ground that they have not been heard by the Collector.

Now the law relating to exercise of powers by the Collector under section 258 of the Gujarat Municipalities Act is settled by the decision of a Division Bench of this Court in Raghavbhai Arjanbhai & another vs Amreli Nagarpalika and another, 1994 (1) GLH 470 wherein this Court has taken the view that the resolution passed by the Municipality, when acted upon by the third parties and any work in pursuance of the resolution is completed by handing over the possession of the rented premises, the Collector cannot exercise jurisdiction under the provisions of the Gujarat Municipalities Act and such orders are not binding upon the third parties. In view of this, the Collector ought not to have passed the impugned order against the petitioners. Apart from that since the impugned order is passed without hearing the petitioners, the same is also required to be quashed and set aside on the ground that it is violative of the principles of natural justice.

In the result, the petition is partly allowed. The impugned order dated 30-9-94 , Annexure "F" to the petition, passed by respondent No.1-Collector is set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

acn \*\*\*\*\*

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